HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1373(S/S) 2001
(Old No. 27298/1994)

Gajendra Dutt Ratori S/o Sri Dharmanand Ratori,
Resident of village- Pausara, P.O. Hindolakhal,
District Tehri Garhwal. ----Petitioner.

Versus

1. Conservator, Rajaji National Park, Dehradun,
2. Director, Rajaji National Park, Dehradun,
3. Range Officer, Rajaji National Park, Motichur, Dehradun. ----Respondents.

Mr. S.N. Babulkar, learned Senior Counsel for the petitioner,
Sri Paresh Tripathi, learned Standing Counsel for the respondents/State.

Hon'ble M.M. Ghildiyal, J.

Heard Mr. S.N. Babulkar, learned Senior Counsel for the petitioner, and Sri Paresh Tripathi, learned Standing Counsel for the State/respondents.

The present writ petition has been filed by the petitioner for the following reliefs:-

i) Issue a writ, rule, order or direction in the nature of mandamus restraining the respondents not to remove/interfere in the functioning of the petitioner as Gate Keeper at Motichur Check Post of Rajaji National Park, Dehradun,

ii) Issue a writ, rule, order or direction in the nature of mandamus commanding and directing the respondents to regularize the services of the petitioner on the post of Gate Keeper w.e.f. the date of his initial appointment i.e. 16.01.1988,

iii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to pay the arrears of the salary of the petitioner due from April 1993 onwards, till date and keep on paying his monthly salary as and when it falls due,

iv) Issue any other suitable writ, rule, order or direction as this Hon'ble Court may deem fit and proper,

v) Award costs of the petition to the petitioner.

Brief facts, as narrated in the writ petition, are that the petitioner is a handicapped and is having certificate of Poorva Madhymik, which is equivalent to High School. On an application moved by the petitioner for appointment on the post of Gatekeeper, the respondent no. 2 made an endorsement to Range Officer on 14.01.1988 to appoint the petitioner on daily wage basis. In pursuance of the order passed by the respondent no. 2, the petitioner was engaged with the respondents' establishment as Gatekeeper on daily wage basis and he joined the services on 16.01.1988. From perusal of the experience certificate, issued by the Range Officer dated 18.04.1992, it emerges out that the petitioner continued to work with the respondents' establishment on consolidated salary. Vide annexure no. 5, the petitioner has filed the document issued by the Range Officer, Motichur, which shows that the petitioner continued till 01.10.1992. Thereafter, the petitioner has made application for permanent absorption of the petitioner in the Department on 09.09.1993.

In para-10 of the writ petition is has been averred by the petitioner that the respondents by an oral order restrained the petitioner to work on the post of Gatekeeper w.e.f. 01.08.1994.

A Counter affidavit has been filed by the respondents. In para-13 of the counter affidavit it is stated that the petitioner being only a daily wage worker, has no right to claim for regularization. His engagement was only for a limited period and now he has disengaged for want of extra work and sufficient funds.

During the course of arguments, learned Senior Counsel for the petitioner has submitted that a G.O. bearing no. 7/1/78-Karmik-2 dated 20th May 1981 was issued by the Govt. wherein it is specifically mentioned that the handicapped may be absorbed in the future selections.

Submission of the learned counsel for the petitioner is that in pursuance of the aforesaid G.O., the petitioner was entitled to be absorbed in the Department permanently because sometimes in 1992, the selections were made by the Department for Class IV posts and the petitioner was also called for alongwith Sri Prem Bahadur for interview for which the respondent has issued a letter on 18.04.1992. The petitioner was entitled to be appointed in view of the G.O. referred above, being a handicapped person. Learned Sr. Counsel for the petitioner has also referred another G.O. no. EM-248-Karmik-4-81 dated 9th January 1981.

Learned counsel for the petitioner has submitted that the petitioner was never informed about the fate of that selection. He has also moved a representation before the Forest Conservator/ respondent no. 1 on 09.09.1993, a copy of which is annexed as annexure no. 6 to the writ petition.

Submission of the learned counsel for the petitioner is that neither the respondent has informed the fate of the interview for which the petitioner was called for, nor the respondent has decided the representation filed before the respondent no.1 on 09.09.1993.

Keeping in view the circumstances of the case, without entering into merits of the case, I deem it fit and proper to direct the respondent no. 1 to take decision on the representation of the petitioner dated 09.09.1993, annexure no. 6, after considering the aforesaid G.Os., provided they are applicable in the case of the petitioner. The respondent shall take decision on the representation within a period of two months from the date of production of a certified copy of this order by speaking order in accordance with law.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 3, 2006:
NCM: